

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION
CRIMINAL DOCKET NO.: 5:07CR4-V**

UNITED STATES OF AMERICA)
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JOSHUA PETER THOMAS SHIELDS,)
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_____)

v.

ORDER

THIS MATTER is before the Court on its own motion for purposes of correcting a mathematical error in Defendant’s sentence. The Court intended to sentence Defendant Shields to 96 months imprisonment.

Pursuant to Rule 35(a), “[w]ithin 7 days after sentencing, the court may correct a sentence that resulted from arithmetical ... error.” FED. R. CRIM. P. 35(a). For purposes of Rule 35(a), “sentencing” means the oral announcement of the sentence.¹ FED. R. CRIM. P. 35(c).

On Monday, October 6, 2008, the undersigned pronounced an oral sentence of 102 months despite expressing the desire to impose a sentence reflecting a 20% reduction from the advisory guideline range of 120 months. When the math is done correctly, a 20% reduction of 120 months is 96 months - not 102 months. Thus, the term of imprisonment originally announced in open court is hereby corrected to reflect this error.

¹ This order is filed within 7 days of the sentencing hearing and, therefore, timely under Rule 45 of the Federal Rules of Criminal Procedure. Pursuant to Rule 45, the calculation of time under the criminal rules calls for *excluding* the day of the act or event that begins the time period. See FED. R. CRIM. P. 45(a)(1). In addition, for a period less than 11 days, intermediate Saturdays, Sundays, and legal holidays are *excluded*. FED. R. CRIM. P. 45(a)(2), (3) and (4)(vii) (identifying Columbus Day as a “legal holiday”).

IT IS HEREBY ORDERED that Defendant will be sentenced to a term of imprisonment of 96 months, with all other terms and conditions remaining the same.

Signed: October 14, 2008

A handwritten signature in black ink, reading "Richard L. Voorhees". The signature is written in a cursive, flowing style with a horizontal line underneath the name.

Richard L. Voorhees
United States District Judge

